

Recommended Plan to Evaluate Health Effects of Air Pollution in Utah

PURPOSE: Establish a process consistent with Utah statutory authority to evaluate information and identify actions that may be necessary to address health issues of air pollution not resolved by current and pending state and federal standards and air quality programs.

BACKGROUND: At the May 2007 Utah Air Quality Board meeting, the Utah Physicians for a Healthy Environment and others provided information to the Board that described serious health effects ascribed to air pollution, principally from criteria pollutants and mercury. The Board was asked to take a number of actions to address these concerns, including convening a formal hearing. The Board requested that the Chair, Ernie Wessman, and the Executive Secretary, Rick Sprott, propose a plan for the Board to consider at the June Board meeting, which would be consistent with statutory requirements and address the reported concerns as expeditiously as possible. Ernie and Rick, in consultation with Fred Nelson, have developed the following process to solicit and systematically evaluate science, health and other information that would be provided from various stakeholders, establish a clear record of the evidence, and provide the basis for the Board to determine the appropriate actions that should be taken.

RECOMMENDATIONS:

It is recommended that:

1. The Board, with the input of DAQ staff, define the scope of pollutants and data to be considered and issue a comprehensive formal Information Request to obtain the most current and credible scientific, health, environmental and other information available pertaining to the health issues of air pollution in Utah. The Request will be a formal action with the broadest possible publicity by public notice, in the media, and the internet. Given the significant effort involved, a phased approach may be necessary in which individual or certain groups of pollutants are considered in stages.
2. The Board appoint an independent panel of health and science experts to consider the data received.
3. The Board direct the panel to develop criteria to assist in evaluating information received to ensure the highest possible credibility of the analysis. The criteria would be approved by the Air Quality Board prior to the panel's evaluation of the information received in response to the Information Request.
4. The panel evaluate the data received and provide conclusions to the Board on the efficacy of current and proposed air quality standards and what standards should be in place to meet state and federal health criteria if current standards are not effective.
5. The Board then schedule and conduct public hearings concerning the recommendations of the panel, and issue a written finding concluding whether corresponding federal regulations are or are not adequate to protect public health and the environment of the state.
6. Following the public hearings and issuing a written finding, the Board then proceed within its legal authority to ensure health issues are addressed, which may include the Board proceeding with rulemaking using established procedures, that may lead to the development of rules more stringent than corresponding federal regulations.
7. The Board request that the Division of Air Quality perform such additional analyses as necessary to support the most appropriate actions to protect public health.

ESTIMATED SCHEDULE:

July 1, 2007 – DAQ staff Define the scope of specific pollutants, data request scoping and recommended panel members

July 11, 2007 – Board considers pollutant scoping and panel member nominations

August 1, 2007 - Initiate Information Request

October 1, 2007 – Close Information Request & begin panel evaluation of data

October Board meeting – panel submits proposed evaluation criteria to Board for approval

January 5, 2008 – Panel completes evaluation and reports to the Board

February 6, 2008 – Board deliberates on findings and makes requests to Division for appropriate actions to address health issues

TBD – Division provides new rules, etc. to Board.

TBD – Board conducts Hearings and renders findings as necessary to comply with UCA 19-2-106(2) if proposed rules are more stringent than a corresponding Federal standard or rule.

NOTE: Significant actions are underway to address PM_{2.5} as part of the 2006 federal standard and EPA is expected to tighten the ozone standard in 2008. It is expected that findings from the Board's evaluation of health data would be addressed as part of these SIP processes for those pollutants.

Utah Statutory Authorities

19-2-101. Short title -- Policy of state and purpose of chapter -- Support of local and regional programs -- Provision of coordinated statewide program.

(1) This chapter is known as the "Air Conservation Act."

(2) It is the policy of this state and the purpose of this chapter to achieve and maintain levels of air quality which will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state, and facilitate the enjoyment of the natural attractions of this state.

19-2-104. Powers of board.

(1) The board may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:

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(b) establishing air quality standards;

(3) The board may:

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(d) secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(e) prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this state;

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(h) encourage and conduct studies, investigations, and research relating to air contamination and air pollution and their causes, effects, prevention, abatement, and control;

19-2-106. Rulemaking authority and procedure.

(1) Except as provided in Subsection (2), no rule which the board makes for the purpose of

administering a program under the federal Clean Air Act may be more stringent than the corresponding federal regulations which address the same circumstances. In making rules, the board may incorporate by reference corresponding federal regulations.

(2) The board may make rules more stringent than corresponding federal regulations for the purpose described in Subsection (1), only if it makes a written finding after public comment and hearing and based on evidence in the record, that corresponding federal regulations are not adequate to protect public health and the environment of the state. Those findings shall be accompanied by an opinion referring to and evaluating the public health and environmental information and studies contained in the record which form the basis for the board's conclusion.